

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

MICHAEL CAGLE,

Plaintiff,

9:04-CV-1151
(TJM)(GHL)

v.

P. PERRY, Sgt.; J. PRICE, Correctional Officer; M. RILEY,
Correctional Officer,

Defendants.

APPEARANCES:

MICHAEL CAGLE
Plaintiff, *pro se*
99-A-6191
Upstate Correctional Facility
P.O. Box 2001
Malone, NY 12953

THOMAS J. MCAVOY, SENIOR DISTRICT JUDGE

ORDER

Presently before the Court is the third amended complaint submitted by Michael Cagle ("plaintiff"). Dkt No. 15. Plaintiff submitted the amended complaint in compliance with the Orders issued by the Court on January 13, 2005 (Dkt. No. 10) and February 25, 2005 (Dkt. No. 14).

Since plaintiff's third amended complaint essentially cures the defects in his prior complaints, it may properly be filed with the Court.

The Court notes that plaintiff has named eight (8) new defendants in the caption of his third amended complaint. Plaintiff has included allegations of wrongdoing against two (2) of the new defendants, and therefore the Clerk is directed to add "W. Eaton" and "W. Brown" to the docket as defendants in this action.

Because plaintiff has failed to include allegations of wrongdoing against the other

six (6) new individuals named in the caption of his third amended complaint, "LaPage," "J. McGaw," "H. Perry," "E.W. Liberty," "L. Russle," and "R. Gale" are not proper defendants at this time and will not be added to the docket in this matter.¹

WHEREFORE, it is hereby

ORDERED, that the Clerk shall revise the docket to include "W. Eaton" and "W. Brown" as defendants in this action, and it is further

ORDERED, that the Clerk shall issue summonses naming the current defendants and forward them, along with copies of the third amended complaint (Dkt. No. 15), to the United States Marshal for service upon the named defendants, together with a copy of this Order. The Clerk shall also forward a copy of the summons and third amended complaint by mail to the Office of the Attorney General for the State of New York, together with a copy of this Order, and it is further

ORDERED, that a formal response to plaintiff's third amended complaint be filed by the defendants or their counsel as provided for in Rule 12 of the Federal Rules of Civil Procedure subsequent to service of process on the defendants, and it is further

ORDERED, that all pleadings, motions and other documents relating to this action must bear the case number assigned to this action and be filed with the Clerk of the United States District Court, Northern District of New York, 7th Floor, Federal Building, 100 S. Clinton St., Syracuse, New York 13261-7367. **Any paper sent by a party to the Court or the Clerk must be accompanied by a certificate showing that a true and correct copy of it was mailed to all opposing parties or their counsel.**

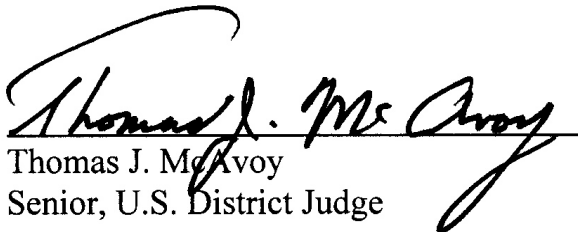
¹ Plaintiff may of course amend his complaint at a later time to add these defendants, subject to the Court's approval.

Any document received by the Clerk or the Court which does not include a proper certificate of service will be returned, without processing. Plaintiff must comply with requests by the Clerk's Office for any documents that are necessary to maintain this action. All parties must comply with Local Rule 7.1 of the Northern District of New York in filing motions, which must be returnable before the assigned Magistrate Judge with proper allowance for notice as required by the Rules. **Plaintiff is also required to promptly notify the Clerk's Office and all parties or their counsel of any change in his address; his failure to do so will result in the dismissal of this action.** All motions will be decided on submitted papers without oral argument unless otherwise ordered by the Court; and it is further

ORDERED, that all motions shall comply with the Local Rules of Practice of the Northern District, and it is further

ORDERED, that the Clerk serve a copy of this Order on Plaintiff by regular mail.

Dated: April 27, 2005


Thomas J. McAvoy
Senior, U.S. District Judge